THE HONOUABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 10277 of 2007
AND
W.P.No. 11365 of 2007

Date:26-07-2007

W.P.No.10277 of 2007:
Between:

Gandrathi Chanu **.. PETITIONER**

And/-
The Commissioner, Municipal Corporation,Warangal and another

…
RESPONDENTS

W.P.No.11365 of 2007:

Nagamalla Siva Prasad and another …Petitioners

AND

The Superintendent of Police, Warangal and five others
..
RESPONDENTS

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COMMON ORDER:

Since the subject matter in both the writ petitions filed by the petitioners is one and the same and since they have been questioning the same impugned order, dated 01.05.2007 passed by the Commissioner, Warangal Muncipal Corporation, Warangal,
I consider it to dispose of both the writ petitions by way of common order.

The petitioner in W.P.No.10277 of 2007 and who is also 6th respondent in W.P.No.11365 of 2007 seeks a writ of mandamus to declare the action of the first respondent in issuing the impugned order, dated 01.05.2007 in ROC No.G4/2805/2006, as illegal and arbitrary.

The petitioners 1 and 2 in W.P.No.11365 of 2007 and who are also respondents 2 and 3 in W.P.No.10277 of 2007 seek a writ of mandamus to direct the respondents 1 to 5 to take necessary action in maintaining status quo with regard to the construction activity in the land in Sy.No.1704 (old), 1221 (new), Fort Road, Warangal, in pursuance of the order of the 5th respondent, dated 01.05.2007.

Heard the learned counsel for the petitioners as well as the learned counsel appearing for the respondents.

It is the case of the petitioner in W.P.No.10277 of 2007 that no doubt he has purchased suit property from one Shaik Fakruddin who is the defendant in O.S.No. 110 of 2006. The respondents
2 and 3 in W.P.No.10277 of 2007and petitioners 1 and 2 in

W.P.NO.11365 of 2007 filed O.S.No.110 of 2006 on the file of the II Additional Junior Civil Judge, Warangal for grant of perpetual injunction and the said Court dismissed the suit by judgment, dated 10.07.2006 against which the respondents 2 and 3 filed A.S.No.151 of 2006 on the file of the V Additional District Judge, Warangal which was allowed by order, dated 16.03.2007 and the matter was remitted back to the II Additional Junior Civil Judge, Warangal for fresh disposal by setting aside the judgment, dated 10.07.2006 in O.s.No.110 of 2007. Pursuant to the said order of the lower appellate Court, the respondents 2 and 3 made a complaint before the first respondent-Municipal Commissioner to cancel the permission as the permission was obtained pursuant to the dismissal of the suit OS 110 of 2006. It is stated that the impugned memo has been issued to the petitioner in W.P.No.10277 of 2007 to stop the construction and also to maintain the status-quo until the final judgment is passed in O.S.No.110 of 2006.

In both the writ petitions, the petitioners question the impugned order, dated 01.05.2007 stating that Gandrathi Chandu who is writ petitioner in W.P.No.10277 of 2007 questioned the said order on the ground that the Muncipal Commissioner has no power or authority to cancel the said permission as there was no misrepresentation or any suppression of facts. It is further stated that admittedly the said memo was issued directing to maintain stutus quo until the final judgment is passed in O.S.No.110 of 2006 and therefore, it was a final order without giving any notice to the said Chandu. It is true that the said order is the final order, which has been passed, based on the complaint made by the petitioners in W.P.No.11365 of 2007 and without giving any notice to the petitioner in W.P.No.10277 of 2007. Admittedly, the said Chandu is not a party to the said suit or the appeal

and therefore, whether the Municipal Commissioner is entitled to take action based on the representation of the petitioner in W.P.No.11365 of 2006 is a matter to be considered after giving reasonable opportunity to both parties.

Accordingly, the impugned memo, dated 01.05.2007 in ROC No.G4/2805/2006 is set aside and the matter is remitted back to the Municipal Commissioner, Warangal for giving reasonable opportunity to both the parties and pass appropriate orders afresh in accordance with law. The parties are at liberty to file necessary documents and advance their respective contentions. The Commissioner, Warangal Municipal Corporation, Warangal District is directed to issue notices to both the parties and pass final orders within eight weeks from the date of receipt of a copy of this order.

With the aforesaid observations, both the writ petitions are disposed of. No costs.

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V.ESWARAIAH, J.

Date:26.07.2007
ccm